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PATENTS
CF-36

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Mark Colaio
Application No.: 10/015,739 Confirmation No.: 8873
Filed : December 12, 2001
For : METHOD AND SYSTEM FOR TRAINING TRADERS
Group Art Unit : 2123
Examiner : Not yet assigned
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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OFFICE OF PETITIONS

REQUEST FOR RECONSIDERATION OF
PETITION UNDER 37 C.F.R. 1.47(b)

Dear Sir:

Petitioner respectfully requests reconsideration of the Decision Refusing Status Under 37 C.F.R. 1.47(b) mailed August 26, 2002, which was provided in response to applicant's Petition For Filing When Inventor's Legal Representative Refuses To Sign Pursuant To 37 C.F.R. 1.47 (b), filed June 24, 2002.

The Examiner states in the Decision that a grantable petition under 37 C.F.R. 1.47(b) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or Declaration after having been presented with the application papers (specification, claims, and drawings);
- (2) an acceptable oath or Declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;

- (4) a statement of the last known address of the non-signing inventor;
- (5) proof of proprietary interest; and
- (6) proof or irreparable damage.

The Examiner contends that applicant's petition under 37 C.F.R. 1.47(b) lacks items (1), (2), (5), and (6), and, accordingly, cannot be granted. Petitioner respectfully requests reconsideration of the Petition in light of the following remarks.

REMARKS

Responsive to item (1), petitioner filed with the Petition under 37 C.F.R. 1.47(b) a letter to the legal representative of the deceased inventor dated January 16, 2002. The Examiner contends that the letter does not state that a copy of the application was forwarded to the deceased inventor's legal representative. However, the letter does indicate on page 2, lines 5-10, that a copy of the application was sent to the legal representative of the deceased inventor. A copy of petitioner's January 16, 2002 letter is enclosed herewith. Petitioner has attested to the unsuccessful attempts to have the legal representative of the deceased inventor sign the application as set forth in the Declaration of facts included in pages 1 and 2 of the filed Petition.

Furthermore, petitioner hereby attests that, in a telephone conversation with the undersigned on October 23, 2002, the deceased inventor's legal representative verbally refused to sign the Declaration.

Responsive to item (2), an acceptable Declaration in compliance with 35 U.S.C. §§ 115 and 116 is attached to this Request. The Declaration identifies the name, residence, mailing address, and citizenship of both the deceased inventor

and the non-signing legal representative of the deceased inventor and states that the legal representative is signing on behalf of the deceased inventor. The Declaration is signed, however, on behalf of and as agent for the deceased inventor and the deceased inventor's legal representative by an officer of the company to which the deceased inventor agreed in writing to assign the invention pursuant to 37 C.F.R. 1.47(b). The Declaration identifies the name, title, residence, mailing address, and citizenship of the officer signing the Declaration. The Declaration also properly identifies the application by application number and filing date.

Responsive to item (5), petitioner encloses herewith, as proof of proprietary interest in the subject matter to justify filing of this application under 37 C.F.R. 1.47(b), a copy of a portion of an unsigned employment agreement between the deceased inventor and the 1.47(b) applicant (CANTOR FITZGERALD, INC.) that bound the respective parties as a condition of the deceased inventor's employment with the 1.47(b) applicant. The original executed employment agreement was destroyed in the World Trade Center on September 11, 2001.

Responsive to item (6), acceptance of this Declaration and Petition under 37 C.F.R. 1.47(b) is necessary to prevent irreparable damage and to preserve the rights of the interested parties. The application requires a signed Declaration in compliance with 35 U.S.C. §§ 115 and 116 to be filed in response to a January 23, 2002 Notice to File Missing Parts and in response to an August 26, 2002 Decision Refusing Status Under 37 C.F.R. 1.47(b). Failure to respond to both of which would result in abandonment of the application.

Thank you for your prompt attention to this Request
For Reconsideration.

Respectfully submitted,

Joel Weiss

Joel Weiss

Registration No. 44,398

Attorney for Petitioner

Fish & Neave

Customer No. 1473

1251 Avenue of the Americas

New York, New York 10020-1105

Tel.: (212) 596-9000



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